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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

(**HON. RUBEN L. BROOKS**)

UNITED STATES OF AMERICA, Plaintiff, v. **REYMUNDO MADRIGAL**, Defendant.	Criminal No. 08-CR-1322-JAH **EX PARTE MOTION TO RELEASE DEFENDANT'S URINE SAMPLE FOR RE-TESTING TO SAN DIEGO REFERENCE LABORATORY**

COMES NOW the defendant, Reymundo Madrigal, by and through his counsel, MARTHA M. HALL, and requests an order authorizing the release of "positive" urine samples obtained from Mr. Madrigal on May 12, 2008 and May 14, 2008, PACTS # 220105.

This motion is based on the sworn declaration of defense counsel, as well as the letter to defense counsel from Pre-Trial Services Officer Eleanor Ruiz, attached as Exhibit A, and the letter from San Diego Reference Laboratory to counsel, attached as Exhibit B.

Respectfully submitted,

Date: July 15, 2008

S/Martha M. Hall
MARTHA M. HALL
DiIORIO & HALL, APC
Attorneys for Mr. Madrigal

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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

(RUBEN L. BROOKS)

UNITED STATES OF AMERICA, Plaintiff, v. **REYMUNDO MADRIGAL,** Defendant.	Criminal No. 08-CR-1322-JAH **DECLARATION OF COUNSEL**

State of California,)
) ss.
County of San Diego,)

I, Martha M. Hall, do hereby declare and say:

1. I am the attorney of record for defendant Reymundo Madrigal in United States v. Madrigal, 08-CR-1322-JAH;

2. I was informed by U.S. Pre-Trial Services Officer Ruiz that I need a formal court order authorizing the release of various the urine samples taken from Mr. Madrigal which I wish to re-test for the proceedings on the OSC (*see* Exhibit A);

3. On July 15, 2008, I located San Diego Reference Laboratory, a San Diego company that tests urine and blood. I spoke to Michelle Kimberly in the Legal Services department at San Diego Reference Laboratory, 6122 Nancy ridge Dr., San Diego, CA 92121, regarding the procedures and fees for re-testing a disputed urine sample (see Exhibit B);

4. Ms. Kimberly estimated the cost of the re-test will be $75, per sample tested, and the results should be available within 3-4 days of receipt of the sample. I agreed to pay for the tests now, and will seek reimbursement in due course after the proceedings are terminated;

5. Probation Officer Ruiz provided me with the standard letter regarding the contents of the order. I agree with all the form requirements except the requirement that the test results be sent by the drug testing facility directly to Pre-Trial Services. Since this is a defense re-test, being paid for by the defense and part of Mr. Madrigal's right to prepare for and make decisions about the hearing on the OSC, his "expert should not be required to provide the results directly to the Pre-Trial Officer unless and until he decides to use the tests results at a hearing. Indeed, defense experts are deemed to be part of the "defense team" and therefore covered by the attorney/client privilege. To require the defense expert to report directly to an arm of the government violates that privilege and the defendant's right, under the Due Process Clause and the Criminal Justice Act, to present a defense, including obtaining expert assistance.

I sign this declaration under penalty of perjury.

Date: July 15, 2008

MARTHA M. HALL
DiIORIO & HALL, APC
Attorneys for Mr. Madrigal